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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 111213751-2102-02]

RIN 0648-XC324

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amounts of Pacific cod from catcher vessels using trawl gear to American Fisheries Act trawl catcher/processors and Amendment 80 catcher/processors in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2012 total allowable catch of Pacific cod to be harvested.

DATES: Effective October 25, 2012, through 2400 hrs, Alaska local time (A.l.t.), December 31, 2012.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens

Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2012 Pacific cod total allowable catch (TAC) specified for catcher vessels using trawl gear in the BSAI is 51,009 metric tons (mt) as established by the final 2012 and 2013 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and a subsequent inseason adjustment to catcher vessels using hook-and-line or pot gear (77 FR 53152, August 31, 2012). The Regional Administrator has determined that catcher vessels using trawl gear will not be able to harvest 3,260 mt of the 2012 Pacific cod TAC allocated to those vessels under § 679.20(a)(7)(ii)(A)(9). The Regional Administrator has also determined that this unharvested amount is unlikely to be harvested through the hierarchy set forth in § 679.20(a)(7)(iii)(A). Therefore, in accordance with § 679.20(a)(7)(iii)(A) and § 679.20(a)(7)(iii)(B), NMFS reallocates 1,260 mt to American Fisheries Act (AFA) catcher/processors and 2,000 mt to Amendment 80 catcher/processors.

The harvest specifications for Pacific cod included in the final 2012 harvest specifications for groundfish in the BSAI (77 FR 10669, February 23, 2012) and inseason adjustment (77 FR 53152, August 31, 2012) are revised as follows: 6,621 mt for AFA catcher/processors, 33,232 mt for Amendment 80 catcher/processors, and 47,749 mt for trawl catcher vessels. In accordance with § 679.91(f), NMFS will reissue cooperative quota permits for the reallocated Pacific cod to Amendment 80 catcher/processors following the procedures set forth in § 679.91(f)(3).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Pacific cod specified for catcher vessels using trawl gear to AFA catcher/processors and Amendment 80 catcher/processors. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 24, 2012.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 et seq.

Dated: October 25, 2012

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Lindsay Fullenkamp,

Acting Deputy Director,  
Office of Sustainable Fisheries,  
National Marine Fisheries Service.

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